



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2016–N240; FXES11120800000–145–FF08EVEN00]**

**Habitat Conservation Plan for the Operation, Repair, Maintenance, and Replacement of State Water Pipeline and Facilities from the Polonio Pass Water Treatment Plant, San Luis Obispo County to Lake Cachuma, Santa Barbara County, California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Central Coastal Water Authority (CCWA) for a 30-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and federally threatened California red-legged frog (*Rana draytonii*) and California tiger salamander (*Ambystoma californiense*) that may occur incidental to the operations and maintenance of an existing potable water delivery system from near Polonio Pass in northeastern San Luis Obispo County to Lake Cachuma in Santa Barbara. We invite comments from the public on the application for an incidental take permit, which includes the Habitat Conservation Plan (HCP). This proposed action has been determined to be eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA).

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may download a copy of the draft HCP and draft environmental action statement and low-effect screening form on the internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644-3958.

**FOR FURTHER INFORMATION CONTACT:** Julie M. Vanderwier, Fish and Wildlife Biologist, at the above address, or by calling (805) 644-1766, extension 222.

**SUPPLEMENTARY INFORMATION:** We invite comments from the public on the draft HCP and our NEPA compliance.

### **Background**

Section 9 of the Act and its implementing regulations (16 U.S.C. 1531 *et seq.*) prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt,

shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “incidental take” as take that is not the purpose of carrying out of an otherwise lawful activity. The Code of Federal Regulations (CFR) provides those regulations governing incidental take permits for threatened and endangered species at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

### **The Applicant’s Proposed Project**

Measures to minimize the amount and severity of take proposed by the applicant are discussed in detail in section 2.10 of the draft HCP. Mitigation for unavoidable take of California red-legged frog and California tiger salamander includes the purchase of credits in the Palo Prieto Conservation Bank in San Luis Obispo County, with an additional credit for California tiger salamander purchased in the La Purisima Conservation Bank in Santa Barbara County. Mitigation for San Joaquin kit fox was provided at the time of project construction as part of its compliance with the California Environmental Quality Act and its terms memorialized in a Memorandum of Understanding between applicant and the California Department of Fish and Game (now California Department of Fish and Wildlife). The mitigation requirements were included in the project description of our biological opinion 1-8-93-F-20. As such, no additional mitigation is deemed necessary for San Joaquin kit fox.

The draft HCP provides for, and discusses, five alternatives to the proposed project: No Project, No Action, Maintenance Alternative, Minimum Conservation, and Maximum Conservation. These are discussed in detail in section 9 of the HCP.

### **Our Preliminary Determination**

We are requesting comments on our preliminary determination that the HCP qualifies for processing as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). Three criteria form the basis for our determination: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. It is our preliminary determination that HCP approval and ITP issuance qualify for categorical exclusion under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, we may revise our determination based upon review of public comments received in response to this notice.

### **Next Steps**

We will evaluate the permit application, including the HCP, and comments we receive to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply

with section 7(a)(2) of the Act regarding jeopardy for federally listed fish, wildlife, or plant species by conducting an intra-Service consultation pursuant to section 7(a)(2) of the Act.

### **Public Review**

We are requesting comments on our determination that the applicant's proposal will have a minor or negligible effect on the San Joaquin kit fox, California red-legged frog, and California tiger salamander and that the plan qualifies as a low-effect HCP. We will evaluate the permit application, including the HCP and comments we receive, to make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If all permit issuance requirements are met, we will issue the permit to the applicant to authorize incidental take of San Joaquin kit fox, California red-legged frog, and California tiger salamander. We will make the final permit decision no sooner than 30 days after the date of this notice.

### **Public Comments**

If you wish to comment on the HCP and associated documents, you may submit comments by any one of the methods provided in **ADDRESSES**.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

**Authority**

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

**Dated: December 29, 2015.**

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**Stephen P. Henry, Field Supervisor,  
Ventura Fish and Wildlife Office,  
Ventura, California.**

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